

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DUSTIN WILLIAM TOMASZYCKI,

Petitioner,

v.

Case No. 22-cv-11218  
Hon. Matthew F. Leitman

GARY MINIARD,

Respondent.

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**ORDER (1) DIRECTING RESPONDENT TO FILE SINGLE, UNIFIED  
RESPONSE TO PETITION FOR HABEAS CORPUS AND (2) DENYING  
RESPONDENT’S MOTION FOR DISMISSAL OF PETITION FOR WRIT  
OF HABEAS CORPUS UNDER HABEAS RULE 4 (ECF No. 8)**

Petitioner Dustin William Tomaszycski is currently incarcerated in the Saginaw Correctional Facility (“SCF”) in Freeland, Michigan. On May 27, 2022, Tomaszycski filed a petition for habeas corpus relief under 28 U.S.C. § 2254. (*See* Pet., ECF No. 1.) Instead of filing a full response to the petition, Respondent Gary Miniard filed a motion to dismiss the petition on the ground that it is time-barred. (*See* Mot., ECF No. 8.)

The Court concludes that the best way to proceed in this action is to have Respondent file a single response to the petition in which Respondent sets forth *all* of his defenses – both procedural and substantive (and including the limitations defense that Respondent has separately presented in the motion to dismiss) – to the

claims in the petition. The Court **DIRECTS** Respondent to file that single, unified response by not later than **November 17, 2023**. For now, the Court will **DENY WITHOUT PREJUDICE** Respondent's motion to dismiss (ECF No. 8). The Court will revisit Respondent's statute of limitations defense as appropriate when the Court undertakes a single review of the petition and forthcoming unified response.

**IT IS SO ORDERED.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: July 19, 2023

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 19, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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